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9

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12 EASTERN DIVISION

13 CAROLE S. ALLES

14 Plaintiff,

15 v.

16 WELL'S FARGO BANK, NA;
17 WELL'S FARGO HOME
18 MORTGAGE, INC;
19 CAL-WESTERN
20 RECONVEYANCE
21 CORPORATION;
22 DOES 1-10

23 Defendants

24 No. 5:12-cv-02095-MWF-DTB filed 11/29/12

25 MOTION FOR STATUTORY INJUNCTION PER
26 Civil §2924.12 for violating Civil §2923.5, §2923.7
27 & Civil §2924.17; Declarations: Nancy McCarron,
28 Carole Alles; REQUEST FOR JUDICIAL NOTICE

29 Date: April 29, 2013 Time: 10:00 a.m.
30 Ctrm: 1600 Hon. Michael W. Fitzgerald

31 Please note at the above time & place plaintiff ALLES will move the court under Civil
32 Code §2924.12 to enjoin foreclosure pending outcome of a factual hearing on whether
33 Wells Fargo and/or CWRC violated Civil Code §2923.5 [Declaration of Compliance with
34 Notice of Default]; Civil Code §2923.7 [Single Point of Contact] and Civil Code 2924.17
35 [anti-robosigning]. The motion is based on grounds that legislators granted statutory
36 standing to a homeowner, by enacting Civil §2923.12 to enjoin a pending foreclosure
37 until the court can conduct a factual hearing on alleged violations. This motion is based
38 on Points & Authorities, Declarations of Nancy McCarron & Carole Alles, & Request for
39 Judicial Notice of Wells Fargo's execution of a consent order mandating compliance with
40 the same rules forming the basis for the above statutes after April 4, 2012.

41 *Nancy Duffy McCarron 4-1-13*

1 INTRODUCTION & GROUNDS FOR MOTION

2 Wells and CWRC never disclosed that *Freddie Mac* was under a conservatorship,
3 and its assets are under the control of FHFA who should have been named as real party.
4 Wells & CWRC never disclosed *Freddie Mac* or FHFA in *Certificate of Related Parties*,
5 and intentionally concealed both names (by omission) in a Joint Rule 26(f) Wells filed.

6

7 WELL'S FARGO's CONSENT JUDGMENT

8 USA et al v. Bank of America Corp, et al Case No. 120361 entered April 4, 2012

9

10 On April 4, 2012 the US District Court for the District of Columbia entered a consent
11 Judgment to settle the case for \$26 billion to be paid by consenting banks, including
12 Wells Fargo Bank [www.justice.gov/opa/documents/wellsfargo-consent-judgement.pdf].
13 Pages from the Consent Judgment related to this complaint, showing Wells Fargo Bank
14 violations, are included as Exhibit E in RJN

15 In the consent judgment Wells Fargo Bank impliedly admitted violating the Unfair
16 and Deceptive Practices laws, the False Claims Act, FIRREA, the Servicemembers Civil
17 Relief Act, the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure. [E-1]

18 **Wells Fargo shall comply with Servicing Standards attached as Exhibit A.** [E-3]

19 The consent judgment is effective for 3 years from entry; i.e. until April 3, 2015. [E-6].
20 Michael J. Held, Executive for Wells Fargo & Company and Wells Fargo Bank, NA
21 signed the consent judgment. [E-91]. Relevant parts of Exhibit A are attached. [RJN-E]
22 Servicing Standards Wells Fargo agreed to comply with are now codified in California;
23 i.e. "The Homeowners' Bill of Rights" effective 1/1/2013.

24 Although The Homeowners' Bill of Rights did not become effective until 1/1/2013
25 Wells Fargo's was required to comply with the consent judgment since entered on 4/4/12.
26 Wells Fargo's violations of the Servicing Standards in Exhibit A of the consent judgment
27 as well as unfair treatment and discrimination are the subject of this consumer complaint.

1 See Complaint to Federal and State Agencies emailed on March 30, 2013. The consent
2 judgment Wells Fargo executed on 4/4/2012 and exhibits attached to the complaint show
3 at least 22 provable violations of the consent agreement just in Alles foreclosure alone.
4 This 2-year history of consent judgments with various federal and state prosecutors, and
5 bank regulators, demonstrates that Wells Fargo will not stop foreclosure frauds unless
6 and until Judges in state and federal courts stop blessing these fraudulent foreclosures.
7

8 WELLS FARGO FAILED TO COMPLY WITH THE CONSENT JUDGMENT

9 In reviewing the ALLES foreclosure file, and the consent agreement Wells Fargo
10 signed one 4/4/12, counsel discovered 22 violations of the consent agreement by Wells
11 and or Cal Western Reconveyance Corporation. [CWRC]. See Declarations of Nancy
12 McCarron and Carole Alles. The following violations occurred. Specific violations
13 involved, but were not limited to, the following violations: Civil §2923.5 [Declaration of
14 Compliance with Notice of Default]; Civil Code §2923.7 [Single Point of Contact] and
15 Civil Code 2924.17 [anti-robosigning]. See declaration of Carole Alles

16
17 **VIOLATION No. 1:** [Exh. E, p.121(A-29)] “*8. Servicer shall not instruct, advise or recommend that
borrowers go into default in order to qualify for loss mitigation relief.*” [consent judgment, Exh.A-29]

18 Wells Fargo agents told Alles to stop making payments to trigger a default so she
19 could be “eligible for a loan modification.” [Alles Decl. ¶10-11]
20

21 **VIOLATION No. 2:** [Exh. E, p.109 (A-17)] “*B. Dual Track Restricted. “Servicer shall not refer an
eligible borrower’s account to foreclosure while the borrower’s complete application for any loan
modification program is pending*” [consent judgment, Exh. A] no dual tracking codified: **Civil §2924.11**

22 In March 2012 Alles stopped paying her mortgage to trigger a default. Alles sought counsel to apply
23 for a HAMP modification. Counsel met with staff at Neighborhood Housing Services of Inland Empire-
24 -HAMP approved facilitators. NHSIE staff submitted Alles’ HAMP application for modification to
25 Wells Fargo loan servicer. While *considering* Alles’ application for the next 3 months Wells instructed
26 the trustee, Cal-Western Reconveyance Corporation [CWRC] to foreclose. [Alles Decl. ¶10-11]
27
28

1 **VIOLATION No. 3:** [Exh. E page 93] “Settlement Term Sheet” 2. *Servicer shall ensure that affidavits, sworn statements, and Declarations are based on personal knowledge, which may be based on the affiant’s review of Servicer’s books and records...and show the affiant is competent to testify...*

2 NOTE: Servicer’s duty is codified at **Civil Code §2924.17** eff. 1/1/2013 “**anti-robosigning**” statute
3 It was physically impossible for Monica Gonzalez in El Cajon, CA to have any personal knowledge of a
4 Servicer’s books and records, or to have reviewed them, in Fort Mill, South Carolina 3000 miles away.
5 Wells Fargo Bank, NA was not the beneficiary having power to substitute a trustee; Freddie Mac bought
6 the loan on 9/16/2006; only Freddie Mac, as note holder and beneficiary, had the power to substitute the
7 trustee; there was no *attorney in fact* authorization from Freddie Mac to roboigner Monica Gonzalez.
8 Wells is not listed in Riverside *attorney in fact* Index to record instruments on behalf of Freddie Mac.

9 On 8/01/12 CWRC recorded a purported *Substitution of Trustee* [Exh C-5] executed by **roboigner**
10 Monica Gonzalez at CWRC in El Cajon, CA purporting to be an “*attorney in fact*” for Wells Fargo
11 Bank, located in Fort Mill, South Carolina. CWRC by employee substituted itself as trustee--a conflict.
12

13 **WELLS & CWRC VIOLATED SEVERAL STATUTES AND THE CONSENT AGREEMENT**

14 A. Only a beneficiary (or all beneficiaries where there are multiple holders such as certificate
holders in a REMIC trust) may substitute a trustee. A trustee cannot substitute itself.

15 **Civil Code §2934**

16 B. An “attorney in fact” authorization must be recorded in the county where the real property sits.

17 **Civil Code §2923; Government Code §27238** Index of recorded “attorneys in fact”

18 C. Monica Gonzalez’ name is not in the Riverside County “Attorney in Fact Index”
Wells never executed an “attorney in fact” agreement for a CWRC employee to act for the bank

19 **VIOLATION No. 9:** [Exh. E, p. 103 (A-11)] Servicer (Wells) failed to conduct regular reviews to
20 assure declarations filed on behalf of Servicer to ensure that documents are accurate and comply with
21 prevailing law and the consent agreement. Wells knew the NOD that CWRC recorded was not accurate.

22 **Civil Code §2924.17 anti robosigning** [Alles Decl ¶10,11,12]

23 **VIOLATION No. 10:** [Exh. E, p.104 (A-12)] Servicer (Wells) failed to adopt policies and processes to
24 oversee and manage foreclosure trustees to ensure due diligence in recording accurate notices.

25 The *Declaration of Compliance* [Civil §2923.5(b)] CWRC attached to Notice of Default recorded
26 on 8/2/12 was fraudulent. [Exh. C-9]. It was executed by *Deitrice Hemphill, VP of Loan
27 Documentation*, who is a **roboigner** from Wells Fargo’s foreclosure mill at 3476 Stateview Blvd., Fort
28 Mill, SC 29715. [Alles Decl. ¶11] Alles testified that no agent ever called to discuss her finances.

1 See Declaration of John Kennerty, Supervisor of Wells Fargo's robosigning foreclosure mill in Fort Mill
2 South Carolina. [Exh. C-10 to C-13] Kennerty admitted that robosigners at Wells mass foreclosure mill
3 had no personal knowledge of due diligence in contacting borrowers 30 days before NOD was recorded.

4 **No Wells agent ever called Alles to discuss her financial condition 30-days before recording NOD.**

5 **VIOLATION NO. 11:** Wells failed to notify borrower of currently available loss mitigation options
6 prior to foreclosure referral. [Exh. E, p.108(A-16)] The declaration executed by robosigner Deitrice
7 Hemphill in South Carolina was knowingly false and not based upon personal knowledge of Alles loan.

8 **VIOLATION NO 12:** [Exh. C-7,8] CWRC recorded NOD which was knowingly false and misleading.
9 The NOD recited "*That by reason thereof the present beneficiary under such Deed of Trust has*
10 *deposited with said trustee such Deed of Trust and all documents evidencing obligations secured*
11 *thereby.*" CWRC and Wells knew Freddie Mac owned the loan---not Wells Fargo Bank, NA which is
12 listed as beneficiary. Consent Agreement mandated transparency in foreclosures since 4/4/2012.

13 **VIOLATION NO 13:** [Exh. E, p. 109 (A-17)] Wells recorded NOS within the 30-day appeal window.
14 This was despite counsel's written demand to Well and CWRC to cancel the trustee sale [Exhibit 17-21]
15 attaching Wells's written promise not to sell during a 30-day appeal window sent 11/8/12. [Exh. 19-21]

16 On 11/30/2012 Servicer Wells Fargo caused CWRC to record a Notice of Trustee Sale [Exh. C 14]
17 violating its duty under the consent agreement not to Notice a Sale during a 30-day window while the
18 homeowner is appealing the servicer's initial denial of an application for a loan modification, which was
19 mailed to Alles on 11/8/12. Civil §2924.17 and consent agreement mandated accuracy of affidavits.

20 **VIOLATION NO. 14:** [Exh. C 18] Wells failed its duty to ascertain that recorded instruments contain
21 accurate & valid information. There is no evidence Monica Gonzalez had authority to assign bank
22 loans. Any such authority as "attorney in fact" would have to be recorded in Riverside County.

23 On 12/7/2012 (less than 2 weeks before the scheduled trustee sale) CWRC recorded a purported
24 "Assignment of Deed of Trust" reciting, "Wells Fargo Bank, NA By Cal-Western Reconveyance
25 Corporation as its attorney in fact" with a Monica L. Gonzalez, A.V.P.'s *robosigned* stamp. [Exh. C 22]
26 [Exh. E page 93] "Settlement Term Sheet" 2. *Servicer shall ensure that affidavits, sworn statements,*
27 *and Declarations are based on personal knowledge, which may be based on the affiant's review of*
28 *Servicer's books and records...and show the affiant is competent to testify...*

NOTE: Servicer's duty is codified at **Civil Code §2924.17** effective 1/1/2013 "anti-robosigning" statute

1 **VIOLATION NO. 17:** Wells failed to establish a single point of contact (SPOC) as
 2 required by the consent agreement. [Exh. E, p.113 (A-21)].

3 On 11/24/12 counsel notified escalation administrator at hmpadmin.com and Wells
 4 Fargo Home Preservation Specialist, Carmen Saldana, that she copulated NPV results at
 5 HAMP's website indicating Alles qualified for modification. [C 23-25] Counsel asked
 6 Wells not to discriminate against Alles on the basis of her age (71), unemployment status,
 7 and disability [an inoperable, incurable lung disease]. [Exh. C-17]. The next day after
 8 submitting escalation by email counsel talked to the agent assigned (John) who told
 9 counsel Alles' escalation was resolved by denial only one day after receiving it. Freddie
 10 Mac merely rubber-stamped Servicer Wells's denial with their own denial in one day.
 11 Alles and counsel talked to at least six different Wells staff related to her loan.

13 WHETHER WELL'S COMPLIED WITH CIVIL §2923.5 IS AN ISSUE OF FACT AND INJUNCTION
 14 MUST REMAIN IN PLACE UNTIL WELL'S HAS PROVEN COMPLIANCE WITH THE STATUTE

16 California Legislature has expressed a strong preference for fostering more cooperative
 17 relations between lenders and borrowers who are at risk of foreclosure, so that homes will
 18 not be lost. Civ. §§ 2923.5 & 2923.6. These provisions, enacted in 2008, require lenders to
 19 negotiate with borrowers in default to seek loss mitigation solutions. ..."California
 20 Homeowner Bill of Rights." (Am. Bill No. 278; Sen. Bill No. 900 (2011-2012 Reg. Sess)
 21 *Jolly v. Chase Home Finance* (2/11/2013) No. A134019. Ct of Appl, First District, Div 2.

23 Granted, these ameliorative efforts have been directed primarily at aiding resident
 24 homeowners at risk of losing their homes. (Civ. Code, §§ 2923.5, subd. (f); Assem. Bill
 25 No. 278, § 18, adding Civ. Code, § 2924.15.) Rather, we refer to the existence—and
 26 recent strengthening—of these legislative measures because they demonstrate a rising
 27 trend to require lenders to deal reasonably with borrowers in default to try to effectuate a
 28 workable loan modification.

1 In short, these measures indicate that courts should not rely mechanically on the
 2 "general rule" that lenders owe no duty of care to their borrowers. *Id.* Ninth Circuit has
 3 stated that a private right of action does exist under Section 2923.5 so long as there
 4 hasn't yet been a foreclosure sale. *Martinez v. America's Wholesale Lender* 446
 5 Fed.Appx. 940, 943 (9th Cir.2011). *Wise v. Wells Fargo* (2011) cv-11-8586 CBM

6

7 The court in *Tamburri v. Suntrust* (ND-Cal) held:

8 **"it is in the public interest to allow homeowners an opportunity**
 9 **to pursue what appear to be valid claims before being displaced**
 10 **from their homes."** *Sencion v. Saxon Mortg. Servs., LLC*, No. 5:10-cv-
 11 3108 JF, 2011 U.S. Dist. LEXIS 41022, at *8-9 (N.D. Cal. Apr. 11,
 12 2011); see also *Naderski*, 2011 U.S. Dist. LEXIS 48867, at *6 (noting
 13 that "[t]he public interest . . . weighs in favor of preventing the
 14 wrongful foreclosure of individuals' property"); *Dumas v. First*
 15 *Northern Bank*, No. CIV. S-10-1523 LKK/DAD, 2011 U.S. Dist. LEXIS
 16 16775, at *6 (E.D. Cal. Feb. 15, 2011) (stating that "[i]t is in the
 17 public interest to require lenders to comply with the California
 18 statutes enacted to protect homeowners from unnecessary
 19 foreclosures"). Because, as discussed above, there are at least
 20 serious questions going to the merits on both the § 2923.5 claim
 21 and the § 2932.5 claim, the public interest weighs in favor of a
 22 preliminary injunction.

23 In *Barriosvnuo v. Chase Bank* C-12-0572 EMC, citing *Mabry v. Supr Court* (2010) 185
 24 CA4th 208, 223 [leading case holding resolution of §2923.5 claim is issue of fact] held:

25 Code. § 2923.5(g)). Defendants have given no indication that they exercised "due diligence"
 26 as defined in the statute in trying to contact the Barrionuevos prior to recording the Notice of
 27 Default, other than their declaration in the Notice itself that they complied with the statute.
 28 When a plaintiff's allegations dispute the validity of defendant's declaration of compliance in a
 29 Notice of Default as here the plaintiff has "plead 'enough facts to state a claim to relief that

30 In the Declaration of Carole Alles, she testifies that no Wells agent contacted her,
 31 30-days prior to recording a Notice of Default. Alles is entitled to an injunction under the
 32 new statutory authority of Civil Code §2912.

1 INJUNCTION UNDER §2924.12 IS MANDATORY AND NOT DISCRETIONARY

2 Civil Code §2924.12 recites in relevant:

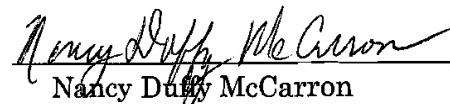
3 ... a borrower may bring an action for injunctive relief to enjoin a material violation
4 of Section 2923.5, 2923.7, 29.24.11 or 2924.17. .. Any injunction shall remain in place
5 and any trustee's sale shall be enjoined until the court determines that the mortgage
6 servicer... has corrected and remedied the violation giving rise to the action....

7
8 This is not a discretionary injunction but rather mandatory until the violations are
9 remedied. The courts have held it is an issue of fact whether Alles or the person who
10 filed the robosigned declaration from Fort Hill (Deatrice Hemphill) is telling the truth.

11
12 CONCLUSION

13 For the above reasons ALLES asks the court to enjoin any foreclosure sale until the
14 court can conduct a factual hearing on the alleged violations, and until they are remedied

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16
17 dated: 4/01/2013


Nancy Duffy McCarron

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1
2 DECLARATION OF COUNSEL NANCY DUFFY MCCARRON
3

4 I, NANCY DUFFY MCCARON, declare:
5

6 1. I am over 18 and not a party to the action. I represent plaintiff in this action and
7 make these statements based personal knowledge and am prepared to testify to them.
8 2. At no time did any person or counsel representing Wells Fargo or Cal-Western
9 Reconveyance Corporation ever disclose that Freddie Mac was under a conservatorship.
10 If I had known this fact when I filed the case on November 29, 2012 I would have named
11 the Director of FHFA as the conservator for Freddie Mac.

12 3. I did not even discover that Freddie Mac owned, or purported to own, the Alles loan
13 until I filed the litigation. We were dealing with Wells Fargo, purported loan servicer, in
14 applying for a loan modification in 2012.

15 4. I believe that Wells Fargo and/or Freddie Mac securitized the Alles loan back on
16 September 13, 2012 into a securitized REMIC trust. Counsel for Wells Fargo refused to
17 disclose the name of the trust or its trustee despite a duty to voluntarily disclose facts and
18 documents under Fed. R. Civ. P 26(f). The investors in the REMIC trust certificates
19 would be the actual beneficiaries (noteholders) owning fractional beneficial interests in
20 the intangible note and intangible security (the trust deed securing the debt obligation).

21 5. After Wells Fargo denied Alles' loan modification, I immediately appealed and filed
22 an escalation complaint with Freddie Mac. I believe within a day after the appeal was
23 received at Freddie Mac the loan modification was denied based on a telecom with John,
24 the agent handling the appeal. Despite a written promise not to Notice a Sale during the
25 appeal window CWR recorded a Notice of Sale on 12/7/2012 the same days as a denial.

26 6. After the court issued a Joint Rule 26 order I prepared draft, with notations in RED
27 for items CWRC & Wells Fargo needed to fill in, including identifying related entities.
28 Adam Hamburg notified me that he would not sign my draft and insisted on preparing the

1 report on his firm's template. I reminded him to disclose related entities as both parties
 2 failed to identify any related entities except Promiss Solutions (identified by CWRC).

3 7. My proposed draft was identical to the court's order shown below except that I
 4 highlighted line 6 in RED and reminded both counsel identify any related entity.

5 Case 5:12-cv-02095-MWF-DTB Document 24 Filed 03/08/13 Page 3 of 8 Page ID #:608

- 6
- 7 federal jurisdiction, including supplemental jurisdiction.
- 8 c. Legal Issues: A brief description of the **key legal issues**, including
- 9 any unusual substantive, procedural or evidentiary issues.
- 10 d. Parties, Evidence, etc.: A list of parties, percipient witnesses and key
- 11 documents on the main issues in the case. For conflict purposes,
- 12 corporate parties must identify all subsidiaries, parents and affiliates. *

13 The final Joint Rule 26 Report Adam Hamburg filed with the court is shown below:

14

15 9 **D. PARTIES, EVIDENCE, ETC.**

16 10 Plaintiff: Carol Alles.

17 11 Defendants: Wells Fargo Bank, N.A. successor by merger to Wells Fargo Home

18 12 Mortgage, and Cal-Western Reconveyance Corporation.

19 13 Anticipated Witnesses: Plaintiff Carol Alles; Nancy Duffy McCarron; Wells

20 14 Fargo's PMK; Cal-Western PMK.

21 15 Documents: The parties are in the initial phases of discovery and have not

22 16 identified all pertinent documents that are relevant to this case. However, the parties

23 17 anticipate that the relevant documents will include all documents relating to the

24 18 origination and servicing of Plaintiff's loan, as well as all documents that relate to the

25 19 submittal, consideration and denial of Plaintiff's loan modification and application, as

26 20 well as all documents that pertain the non-judicial foreclosure proceeding.

27 → 21 **E. DAMAGES.**

28 8. Adam Hamburg not only intentionally ignored the line from the court order, which I
 had highlighted in RED and reminded counsel to disclose, he actually DELETED the
 entire line from the end of subsection D before subsection E. DAMAGES. Wells also did

1 not disclose Freddie Mac or FHFA in its mandatory Certificate of Interested Parties
 2 shown in an excerpt below:

CAROL A. ALLES,		CASE NUMBER: 5:12-cv-02095-MWF-DTB
v.	Plaintiff(s),	
WELLS FARGO BANK, NA; WELLS FARGO HOME MORTGAGE, INC.; CAL-WESTERN RECONVEYANCE CORPORATION; DOES 1-10,	Defendant(s)	CERTIFICATION AND NOTICE OF INTERESTED PARTIES (Local Rule 7.1-1)

6 TO: THE COURT AND ALL PARTIES APPEARING OF RECORD:
 7

8 The undersigned, counsel of record for Wells Fargo Bank, N.A. and Wells Fargo Home Mortgage
 9 (or party appearing in pro per), certifies that the following listed party (or parties) may have a direct, pecuniary
 interest in the outcome of this case. These representations are made to enable the Court to evaluate possible
 disqualification or recusal. (Use additional sheet if necessary.)

PARTY	CONNECTION
(List the names of all such parties and identify their connection and interest.)	
→ Wells Fargo Bank, N.A. Wells Fargo Home Mortgage	Defendant Defendant

13 9. This demonstrates a concerted effort on the part of Wells Fargo's counsel to conceal
 14 the fact that Freddie Mac was an interested party and that FHFA was an interested party.
 15 This shows that Wells Fargo continues its long history of not being transparent or ethical.
 16 10. After Alles' application for a loan modification was denied, and her appeal was
 17 denied within a day after being received by the escalation department of Freddie Mac,
 18 Wells Fargo barreled forward with foreclosure. No one ever told me or Alles that the
 19 FHFA was conservator, and that it had imposed a Servicer Alliance Initiative (SAI) to
 20 promote foreclosure alternatives, or that HFA had revised its classic modification
 21 program with a new program designed to afford modifications to borrowers who did not
 22 qualify under HAMP or HARP. No one told me that FHFA had expanded a suite of
 23 loan modification tools, including a "Streamlined Modification Initiative" (SMI) option
 24 to give delinquent borrowers another path to avoid foreclosure. The borrower is offered a
 25 chance to make 3 payments on time, and if made, the borrower is given a permanent
 26 modification. This is exactly what Alles had requested which was willfully concealed.
 27 [Exh. A herein]. I believe the FHFA Director in joined would offer it to settle the case.
 28

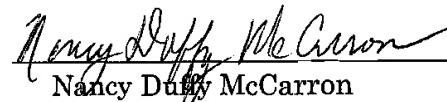
1 11. Plaintiff's counsel asked Wells Fargo's counsel to stipulate to joinder in a meet &
2 confer on this motion on March 13, 2013 but Mr. Hamburg refused.

3 12. I filed a Complaint with the FHFA, the US Attorney General, the California
4 Attorney General, and various federal and state agencies on March 30, 2013 by email.
5 Complaint is attached in a Request for Judicial Notice filed with this motion. [as Exh. E]
6 I found 22 violations of a Consent Agreement Wells Fargo executed on 4/4/2012 in
7 which it agreed to abide by Servicing Guidelines prohibiting certain illegal and unfair
8 practices Wells Fargo had been engaging in during foreclosures in the past several years.
9 Many of these violations are now codified as "California Homeowners Bill of Rights"
10 effective 1/1/2013. Although laws were not statutorily mandated until 1/1/13 and Alles
11 foreclosure began August 2/2013 with the Notice of Default recording, Wells Fargo was
12 still required to comply by the consent agreement executed and signed on 4/4/2012.
13 It is effective for 3 years until April 2, 2015.

14 13. The 5 exhibits included in RJN filed herewith contain copies of actual documents.

15
16 I declare the above true under penalty of perjury and US law. Executed in Santa Barbara

17
18 dated: 4/01/2013


Nancy Duffy McCarron

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1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA**

3 At the time of service I was over 18 years of age and not a party to this action.
4 I am attorney for plaintiff. My address is: 950 Roble Lane, Santa Barbara, CA 93103.

5 On April 1, 2013 I served true copies of the following document(s)

6 **MOTION FOR STATUTORY INJUNCTION UNDER CIVIL CODE §2923.12** with
7 Declarations of Nancy McCarron & Carole S. Alles, RJN, Notice of Lodging Order, with
8 pdf copy of proposed order [Doc & pdf format proposed order sent to Judge by email to:
mwf_chambers@cacd.uscourts.gov]. The documents were served to:

9 Adam S. Hamburg, Atty for Wells Fargo
10 Prenovost, Normandin, Bergh & Dawe
11 Broadway, Suite 200
12 Santa Ana, CA 92706-2614
13 714-547-2444 fax 714-835-2889
14 “ahamburg@pnbd.com”

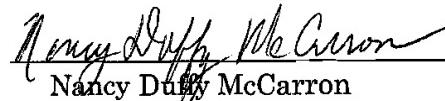
15 Helen Cayton, Atty for CWRC
16 Wright, Finlay & Zak LLP2122 No.
17 4664 MacArthur Court, Suite 200
18 Newport Beach, CA 92660
19 949-477-5050 ext.1024 fax 949-608-9142
20 hcayton@wrightlegal.net

21 Courtesy copy sent by email to: Director@fhfa.gov; DeputyDirector-enterprises@fhfa.gov;
22 GeneralCounsel@fhfa.gov; Ombudsmen@fhfa.gov

23 **BY CM/ECF NOTICE OF ELECTRONIC FILING:** I electronically filed the
24 document(s) with the Clerk of the Court by using the CM/ECF system. Participants in
the case who are registered CM/ECF users will be served by the CM/ECF system.
Participants in the case who are not registered with CM/ECF users will be served by
mail or by any other means permitted by the court rules, and/or agreed by the parties.

25 I declare under penalty of perjury under the laws of the United States of America
26 that the foregoing is true and correct and that I am a member of the bar of the Court at
whose direction the service was made. Executed on April 1, 2013 at Santa Barbara, CA.

27 Dated: 4-1-2013

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Nancy Duffy McCarron